IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP No.: 681 of 2006.

Decided on: 11.06.2007.

Power Grid Corporation of India Ltd. … Petitioner.

Versus

Shri Mangat Ram and others. … Respondents.

Coram:

The Hon'ble Mr. Justice Rajiv Sharma, J.

Whether approved for reporting?[1] *No.*

For the petitioner: Mr. K.D. Shreedhar, Advocate.

For Respondents: Mr. Romesh Verma, Advocate.

Rajiv Sharma, Judge:

This petition arises out of the award dated 29.4.2006 announced by the Additional District Judge, Shimla under Section 16(3) of the Indian Telegraph Act, 1885.

The brief facts which can be culled out from the pleadings of the parties are that the respondents are owners in possession of the land measuring 4 bighas 6 biswas comprising in Khasra Nos. 350 and 351 situated at Mauja Thana, Tehsil Kotkhai, District Shimla, H.P. The petitioner-Corporation was permitted to undertaken the construction work of 400 KV D/C Jhakri-Abdullapur transmission line vide letter dated 5th April, 1989. The same was

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Whether reporters of local papers may be allowed to see the judgment? No.

published in H.P. Rajpatra in the month of February, 1994. The land of the respondents was utilized for laying the transmission line from Jhakri-Abdullapur resulting in damage to 9 fruit bearing apple plants aged 10 years. The respondents were paid a sum of Rs.6953/- as compensation by the petitioner-Corporation. The respondents had filed a petition before the learned Additional District Judge on 18.12.1999 under Section 16(3) of the Indian Telegraph Act, 1885 for the enhancement of the compensation. The petitioner-Corporation had filed reply to the claim petition. The learned Additional District Judge vide award dated 29.4.2006 had enhanced the compensation from Rs.6,953/- to 69,530/-.

Mr. K.D. Shreedhar appearing on behalf of the petitioner-Corporation had strenuously argued that the award dated 29.4.2006 is not sustainable in the eyes of law. Mr. Romesh Verma, Advocate appearing on behalf of the respondents had supported the award dated 29.4.2006.

I have heard the parties and gone through the record.

It is the admitted case of the parties that 9 apple trees of the respondents were damaged while laying the transmission line. PW-2 Shri Mohan Lal had deposed that the respondents had raised an orchard on the land and on account of laying of tower and transmission line, 9 apple plants standing on the land of the respondents were uprooted and buried under the debris. Shri B.S. Bajwa, retired Deputy Director, Horticulture while appearing as PW-3 had deposed that he had assessed the damage to the trees

of the respondents to the extent of Rs.2,01,396/- on the basis of general principles of Harbans Singh Formula.

The petitioner-Corporation had examined the Junior Engineer, Shri S.N. Thakur as RW-1. He had admitted the laying of Nathpa Jhakri-Abdullapur transmission line resulting in damage to the apple plants of the respondents. Shri Sukh Ram, Junior Engineer while appearing as RW-5 had deposed that the H.P. Government had adopted criteria for the assessment of fruit bearing trees in the year 2001 and had also placed on record the copy of the formula published by the Horticulture Department.

This Court has held in **Union of India and others Versus Khazana Ram and others** reported in 1998 (1) SLC, 479 as under:-

> ***"So far the present case is concerned, the year of assessment is 1989 and if we rely upon the Price Index filed along with the replies to the stay applications in the writ petitions, the Price Index has arisen from 79.7 in the year 1966 to 428.8 in the year 1988 taking the Price Index as 100 for the base year 1970-71. The Price Index for the year 1989 has been shown 176.4 by taking 100 for the base year 1981-82. Therefore, the increase from 1966 to 1989 will be approximately five times. Accordingly, we hold that the ends of justice would be met if the claimants are given compensation five time of the compensation assessed by the Department as per Annexure PB to the writ petitions and Ext. RW-1/A on the file of the District Judge. Accordingly, the writ petitions are partly allowed, whereas, the revision petitions are dismissed and the impugned awards dated 29.4.1997***

passed by District Judge, Bilaspur are modified. No costs."

The learned Additional District Judge had correctly applied the Harbans Singh Formula for assessing the damage after taking into consideration the price rise index w.e.f. 1966 to 1997. The method adopted by the learned Additional District Judge of taking into consideration the price rise index on the basis of Harbans Singh Formula cannot faulted with. Once the land of the respondents has been utilized resulting in damage to the fruit bearing trees, it is bounden duty of the petitioner-Corporation to pay adequate compensation to the respondents. A sum of Rs.62,577/- with interest at the rate of 7.5% per annum for the period from 18.12.1999 till the date of payment awarded by the learned Additional District Judge is just and fair amount for causing damage to 9 apple trees.

There is neither any jurisdictional error nor any procedural irregularity in the award dated 29.4.2006 announced by the learned Additional District Judge.

Accordingly, there is no merit in the writ petition and the same is dismissed. The award dated 29.4.2006 is up-held and interim order dated 23.8.2006 confirmed on 4.1.2007 is vacated. There shall be no order as to costs.

June 11, 2007 **(Rajiv Sharma)**
(sck). **Judge**